

REMARKS:

- I) The specification is being amended to add application headings. No new matter has been added.
- II) The claims are being amended to eliminate indefiniteness issues. New claims 33- 39 have been added.
- III) Claims 1- 11 and 17-32 stand rejected under 35 USC 103(a) as being *anticipated* by Tichenor (US 4,187,534) when read with Scobey et al. (US 5,859,717). Claims 12-16 stand as withdrawn.

"Anticipation" means that the claimed invention was previously known, and that all of the elements and limitations of the claim are described in a single prior art reference. *Akzo N.V. v. U.S. Int'l Trade Comm'n*, 808 F.2d 1471, 1479 (Fed Cir. 1986). Under 35 USC §102, anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *Hakim v. Cannon Avent Group, PLC*, 2005-1398 (Fed. Cir. 2007). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil of California*, 814 F.2d 628, 2 USPQ2d 1051 (Fed. Cir. 1987) MPEP 2131. Moreover, an anticipation reference must be shown in as complete detail as is recited in the claims. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913 (Fed. Cir. 1989) MPEP 2131. Additionally, for anticipation, the elements shown in a reference must be arranged as required the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). Identity of elements, and not identity of terminology is required, thus there is not *ipsissima verbis* test. MPEP 2131.

- IV) With respect to the rejected claims 1-11 and 17-32 the following limitations are neither shown nor suggested by the prior art.

Claim 1: one of the supporting surfaces [for the wave modifying elements] has at least two openings ... wherein the openings are connected together ... by at least one through bore.

Claim 3: [the] opening is completely covered by a respective one ... wave-modifying elements.

Claim 4: the opening of the other support surface is on the central perpendicular on the connecting line between the two openings.

Claim 7: the openings are formed by bores ... which extend into a channel substantially parallel to the supporting surfaces, wherein the channel is in the form of a circular bore.

Claim 8: the wave-modifying element is fixed on the supporting surface.

Claim 10: the support portion is made of POM or PEEK.

Claim 11: ... supporting surface has a spacer element on the side remote from another supporting surface.

Claim 17: the spacer element and the support portion are integral.

Claim 18: there are at least three mutually parallel supporting surfaces.

Claim 19: at least one wave-modifying element is a narrow-band mirror.

Claim 22: one or more through passages which open onto at least one opening in the first surface ... two openings in the second surface so that the through passages connect the first and second surfaces together.

Claim 23: the supporting surfaces are produced after the through passages have been provided.

Claim 24: average roughness depth ... is range of 20-100 nm.

Claim 25: supporting surface produced by ultra-precision machining.

Claim 26: supporting surface is produced by a turning method ...

Claim 27: supporting surfaces are produced in one clamping method.

Claim 31: placing ... wave-modifying element *on* a supporting surface, and fixing the wave-modifying element *on* the supporting surface.

Claim 33: supporting surface is formed by one or more supporting elements arranged next to the opening.

Claim 34: supporting surface average roughness depth of 20-100 nm.

Claim 35: supporting surface average roughness depth of less than 20 nm.

Claim 37: supporting surfaces have a surface that has been produced by diamond turning or diamond milling.

V) Conclusion: A person skilled in the relevant art would not combine the structure of Scobey with the theatre light structure of Tichenor. For all of the above reasons, the claims presented herein must be considered to distinguish over the cited prior art.

It is requested that the application be re-examined and passed to issue with the amended claims presented herein above. Applicants invite the Examiner to extend a telephone interview for settling any remaining issues.

No additional fees are believed to be required. In the event that an additional fee is required with respect to this communication, the Commissioner is hereby authorized to charge any additional fees, or credit any overpayment, to Paul & Paul Deposit Account No. 16-0750. (order no. 8003)

Respectfully submitted,
Paul & Paul

Date: March 29, 2010

/john j. simkanich, regis. no. 26036/
by: John J. Simkanich
Regis. No. 26,036
2000 Market Street, Suite 2900
Philadelphia, PA 19103
(215) 568-4900
FAX 215-567-5057

CERTIFICATE OF EFS-WEB ELECTRONIC TRANSMISSION

I hereby certify that the foregoing correspondence is being transmitted by electronic filing before the eBusiness Center of the United States Patent and Trademark Office, at www.uspto.gov, using the Electronic Filing System (EFS-Web), on the date written below.

on March 29, 2010
(date)

PAUL & PAUL
by: John J. Simkanich

/john j. simkanich, regis. no. 26036/
(signature)